

“18” of plaintiffs’ complaint except admit that defendant Tower entered into an
3. Deny each and every allegation contained in paragraphs “13”, “14” and

AS AND FOR A RESPONSE TO THE FIRST CLAIM FOR RELIEF

plaintiffs’ complaint.

2. Admit the allegations contained in paragraphs “10”, “11” and “12” of
plaintiffs’ complaint.

of the allegations contained in paragraphs “1”, “2”, “3”, “4”, “5”, “6”, “7”, “8” and “9” of
1. Deny knowledge or information sufficient to form a belief as to the truth
complaint as follows:

Company (“Liberty”) by their attorney, George A. Marco PLLC, respond to plaintiffs’
Defendants Tower Painting Co., Inc. (“Tower”) and Liberty Mutual Insurance

----- X -----

Defendants.

MUTUAL INSURANCE COMPANY,
TOWER PAINTING CO., INC. AND LIBERTY

:

:

:

-aggaint-

Plaintiffs,

JUDGE KARAS

:

:

:

TRUSTEES OF THE STRUCTURAL STEEL AND
BRIDGE PAINTERS OF GREATER NEW YORK
Docket No.: 07-CV-10519
INSURANCE AND ANNUITY FUNDS,
EMPLOYEE TRUST FUNDS AND TRUSTEES OF THE
DISTRICT COUNCIL 9 PAINTING INDUSTRY
ANSWER

X

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

if set forth more fully herein.

- and reiterate each and every response contained in paragraphs "1" through "26" above as
10. In response to paragraph "27" of the complaint, defendants repeat, realllege

AS AND FOR A RESPONSE TO THE THIRD CLAIM FOR RELIEF

"26" of plaintiffs' complaint.

9. Deny each and every allegation contained in paragraphs "24", "25" and
defendant Tower.

complainant except that certain fringe benefit contributions are due plaintiffs by
Deny each and every allegation contained in paragraph "22" of plaintiffs'
respectfully refers all questions of law to be determined by the Court at the time of trial.
of the allegations contained in paragraphs "21" and "23" of the complaint and

7. Deny knowledge or information sufficient to form a belief as to the truth
if set forth more fully herein.

- and reiterate each and every response contained in paragraphs "1" through "19" above as
6. In response to paragraph "20" of the complaint, defendants repeat, realluge

AS AND FOR A RESPONSE TO THE SECOND CLAIM FOR RELIEF

complainant.

5. Deny each and every allegation contained in paragraph "19" of plaintiffs'
plaintiffs by defendant Tower.

"17" of plaintiffs' complaint except that certain fringe benefit contributions are due
4. Deny each and every allegation contained in paragraphs "15", "16" and
terms and conditions.

agreement with the Union and respectfully refers the Court to said agreement for its true

plaintiffs' complaint.

18. Deny each and every allegation contained in paragraphs "36" and "38" of the allegations contained in paragraphs "34", "35" and "37" of plaintiffs' complaint.
17. Deny knowledge or information sufficient to form a belief as to the truth questions of law to be determined by the Court at the time of trial.
of the allegations contained in paragraph "33" of the complaint and respectfully refers all questions of law to be determined by the Court at the time of trial.
16. Deny knowledge or information sufficient to form a belief as to the truth complainant except that defendant Liberty executed a bond.
15. Deny each and every allegation contained in paragraph "32" of plaintiffs' complaint except that defendant Liberty fully herein.
and reiterate each and every response contained in paragraphs "1" through "30" above as it set forth more fully herein.
14. In response to paragraph "31" of the complaint, defendants repeat, reiterate
complainant except that certain fringe benefit contributions are due plaintiffs by defendant Tower.

AS AND FOR A RESPONSE TO THE FOURTH CLAIM FOR RELIEF

13. Deny each and every allegation contained in paragraph "30" of plaintiffs' complaint.
12. Deny each and every allegation contained in paragraph "29" of plaintiffs' complaint except that certain fringe benefit contributions are due plaintiffs by defendant Tower.
questions of law to be determined by the Court at the time of trial.
of the allegations contained in paragraph "28" of the complaint and respectfully refers all questions of law to be determined by the Court at the time of trial.
11. Deny knowledge or information sufficient to form a belief as to the truth

less than pleaded and/or improperly calculated.

26. Upon information and belief, any monies due and owing to plaintiffs are

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

bond, plaintiffs' entitlement, if any, is limited to its pro rata share.

bond, and to the extent that any other entity has an entitlement to the proceeds of the

25. Defendant Liberty's liability, if any, is limited to the penal sum of the

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

24. Plaintiffs' claim is barred by release, payment and/or waiver.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Law §137 and/or Labor Law §220.

23. Plaintiffs seek to recover for items that are not covered by State Finance

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

requirements of State Finance Law §137 and/or Labor Law §220.

22. Plaintiffs' complaint is barred by plaintiff's failure to satisfy the

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

and/or contractual conditions precedent.

21. Plaintiffs' complaint is barred by plaintiff's failure to meet statutory

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

20. Plaintiffs' complaint is barred by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

granted.

19. Plaintiffs' complaint fails to state a cause of action for which relief can be

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

(914) 592-1515
Elmsford, New York 10523
258 Saw Mill River Road
Attorneys for Plaintiffs
Ambinder & Sheppard, PLLC
Barnes, Laccarino, Vrigimia,
Dana L. Henke (DLH 3025)

TO:

(212) 208-1435
New York, New York 10005
140 Broadway, 46th Floor
Attorney for Defendants
George A. Marco, PLLC
George Marco (GM 8253)

/s/

Respectfully,

March 4, 2008
Date: New York, New York

its entirety and for such other and further relief as this Court may deem just and proper.

WHEREFORE, defendants demand judgment dismissing plaintiffs' complaint in

its bond.

28. Defendant Liberty may be held liable herein only according to the terms of

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

bargaining agreements.

27. Plaintiffs' complaint is barred by plaintiffs' breach of its collective

AS AND FOR A NINTH AFFIRMATIVE DEFENSE